

Internal Revenue Service

Department of the Treasury

Washington, DC 20224

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Third Party Communication: None

Date of Communication: Not Applicable

Person To Contact:

, ID No.

Telephone Number:

Refer Reply To:

CC:PSI:B04

PLR-143201-13

Date: APRIL 16, 2014

In R e:

Legend

Decedent	=
Spouse	=
Trust	=
A	=
B	=
C	=
Attorney	=
Date 1	=
Date 2	=
Date 3	=
Date 4	=

Dear :

This letter responds to your letter dated September 27, 2013, requesting an extension of time pursuant to § 301.9100-3 of the Procedure and Administration Regulations to file Form 706-QDT, U.S. Estate Tax Return for Qualified Domestic Trusts, to notify and certify to the Internal Revenue Service (Service) that Spouse, who is the beneficiary of Trust, has become a United States citizen.

According to the facts submitted, Decedent, a United States citizen, died on Date 1, survived by Spouse. At the time of Decedent's death, Spouse was not a United States citizen. Under the terms of Decedent's last will and testament, Trust was created for the benefit of Spouse. The executors of Decedent's estate timely filed Decedent's Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, and elected on Schedule M to treat Trust as a qualified domestic trust (QDOT) pursuant to

§ 2056A of the Internal Revenue Code (Code). Decedent's estate received a closing letter from the Service.

The initial co-trustees of Trust were Spouse, A and B. A is an attorney and a citizen of the United States. B is the son of Decedent and a citizen of the United States. A resigned as co-trustee on Date 2, at which time C, who was the daughter of Decedent and a citizen of the United States, became a successor co-trustee of Trust.

On Date 3, a date subsequent to Date 2, Spouse became a citizen of the United States. It is represented that Spouse continuously resided in the United States from the date of Decedent's death and at all times thereafter until Spouse's death on Date 4. It is represented that no distributions other than trust income were made from Trust to Spouse or any other person during this time period.

Although B and C had knowledge that Spouse became a United States citizen, neither B, C, nor Spouse were aware of the necessity to file Form 706-QDT, as required under § 20.2056A-10(a)(2) of the Estate Tax Regulations, in order to avoid application of the estate tax imposed under § 2056A. Although a tax professional retained by the co-trustees for preparing Trust tax returns and an attorney retained by Spouse for estate planning services were informed that Spouse had become a United States citizen, the co-trustees of Trust were not advised by any tax professional of the necessity to file a Form 706-QDT.

After the death of Spouse, B was informed of the necessity to file a Form 706-QDT by Attorney, an attorney retained by B to assist in administering Trust after the death of Spouse.

B requests an extension of time pursuant to § 301.9100-3 to file a final Form 706-QDT notifying and certifying to the Service that Spouse became a United States citizen, as required by § 20.2056-10(a)(2).

Law and Analysis

Section 2001(a) of the Code imposes a tax on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

Section 2056(a) provides that, for purposes of the tax imposed by § 2001, the value of the taxable estate is determined by deducting from the value of the gross estate an amount equal to the value of any interest in property that passes or has passed from the decedent to the surviving spouse.

Section 2056(d)(1) provides that, except as provided in § 2056(d)(2), if the surviving spouse is not a citizen of the United States, no deduction shall be allowed under

§ 2056(a). Section 2056(d)(2) provides that § 2056(d)(2) shall not apply to any property passing to the surviving spouse in a QDOT.

Under § 2056A, in order for a trust to qualify as a QDOT: (1) the trust instrument must require that at least one trustee of the trust be an individual citizen of the United States or domestic corporation and that no distribution other than a distribution of income may be made from the trust unless a trustee who is an individual citizen of the United States or a domestic corporation has the right to withhold from the distribution the additional estate tax imposed by § 2056A(b)(1) on the distribution; (2) the trust must meet the requirements that are prescribed under Treasury regulations to ensure the collection of the tax imposed by § 2056A(b); and (3) the executor must make the election prescribed by § 2056A(d) to treat the trust as QDOT.

Section 2056A(b)(1) provides that an estate tax is imposed on — (A) any distribution before the date of death of the surviving spouse from a qualified domestic trust, and (B) the value of the property remaining in a qualified domestic trust on the date of the death of the surviving spouse.

Section 2056A(b)(12) provides, in part, that if the surviving spouse of the decedent becomes a citizen of the United States and if such spouse was a resident of the United States at all times after the date of death of the decedent and before such spouse becomes a citizen of the United States, then the tax imposed by § 2056A(b)(1)(A) shall not apply to any distributions before such spouse becomes a citizen, and the tax imposed by § 2056A(b)(1)(B) shall not apply.

Section 2056A-10(a)(1) and (2) provides, in part, that a QDOT is no longer subject to the § 2056A tax if the surviving spouse becomes a citizen of the United States and the spouse was a resident of the United States at all times after the death of the decedent and before becoming a United States citizen, and the U.S. Trustee of the QDOT notifies the Service and certifies in writing that the surviving spouse has become a United States citizen. Notice is to be made by filing a final Form 706-QDT on or before April 15th of the calendar year following the year that the surviving spouse becomes a citizen, unless an extension of time of up to 6 months for filing is granted under § 6081.

Section 301.9100-1(c) provides that the Commissioner has discretion to grant a reasonable extension of time under the rules set forth in §§ 301.9100-2 and 301.9100-3 to make a regulatory election, or a statutory election (but no more than six months except in the case of a taxpayer who is abroad), under all subtitles of the Code except in subtitles E, G, H, and I.

Section 301.9100-3 provides the standards used to determine whether to grant an extension of time to make an election whose due date is prescribed by a regulation (and not expressly provided by statute). In accordance with § 20.2056A-10(a)(2), the time for filing the required notice with the Service is not expressly prescribed by statute.

Accordingly, B, a U.S. Trustee, may seek an extension of time to file the required notice and certification with the Service that Spouse became a United States citizen.

Requests for relief under § 301.9100-3 will be granted when the taxpayer provides the evidence to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and the grant of relief will not prejudice the interests of the government.

Section 301.9100-3(b)(1)(v) provides that a taxpayer is deemed to have acted reasonably and in good faith if the taxpayer reasonably relied on a qualified tax professional, including a tax professional employed by the taxpayer, and the tax professional failed to make, or to advise the taxpayer to make, the election.

Based on the facts submitted and the representations made, we conclude that the requirements of § 301.9100-3 are satisfied. Therefore, B is granted an extension of time of 120 days from the date of this letter to file with the Service the required notice and certification that Spouse became a United States citizen. The required notice and certification should be made on Form 706-QDT. The Form 706-QDT should be filed with the Internal Revenue Service Center, Cincinnati, OH 45999. A copy of this letter should be attached to the Form 706-QDT.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

Sincerely,

Karlene M. Lesho
Acting Senior Technician Reviewer, Branch 4
Office of the Associate Chief Counsel
(Passthroughs and Special Industries)

Enclosure:

Copy for § 6110 purposes